

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TAMMY KOHR, EUGENE STROMAN, and
JANELLE GIBBS, on behalf of themselves
and all others similarly situated, and
ROBERT COLTON,

Plaintiffs,

v.

CITY OF HOUSTON,

Defendant.

Civil Action No. 17-cv-1473

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Plaintiffs hereby move the Court for a temporary restraining order enjoining the Defendant City of Houston (the “City”) from enforcing Houston Code of Ordinances §§ 21-61 to -62. This motion is made on the basis of the Declarations and Memorandum in Support of Plaintiffs’ Emergency Motion for Temporary Restraining Order filed together with this motion.

As set forth in detail in the Memorandum, Plaintiffs have established that they are likely to succeed on the merits of their claims that Houston Code of Ordinances §§ 21-61 to -62 violate the Constitution; that Plaintiffs will suffer immediate and irreparable harm if the Court does not enjoin Houston Code of Ordinances §§ 21-61 to -62; that the City will suffer no harm if the Court preserves the status quo pending adjudication of this matter on the merits; that the balance of hardships tips strongly in Plaintiffs’ favor; and that a preliminary injunction in this case advances the public interest.

As described in the accompanying Declaration of Joseph M. Abraham, Plaintiffs have telephoned to inform counsel to the City of the circumstances—as described in the

accompanying Declaration of Eugene Stroman—that justify Plaintiffs' request for emergency relief. The City has not disputed, as is set out in the Stroman Declaration, that officers from the Houston Police Department yesterday told inhabitants of the Wheeler encampment that, if they did not take down their tents, they would receive citations for camping in a public place as early as today. The City also has not objected to Plaintiffs' plan to move for emergency relief.

For these reasons and the reasons detailed in the accompanying Memorandum in Support of Plaintiffs' Emergency Motion for Temporary Restraining Order, Plaintiffs respectfully request that the Court grant their emergency motion.

Because of the City's prior representations that there would not be any enforcement action this week, Plaintiffs' counsel are not currently present in Houston. Plaintiffs' Houston-based counsel is out of state, but their Austin-based counsel are available to drive to Houston for an appearance on three hours' notice. Plaintiffs' counsel are also available to appear telephonically, should that be acceptable to the Court.

Dated: August 17, 2017

Respectfully Submitted,

By: /s/ Trisha Trigilio

Trisha Trigilio
Attorney-in-charge
State Bar No. 24065179
S.D. Tex. Bar No. 2461809
American Civil Liberties Union
Foundation of Texas
1500 McGowen Street, Suite 250
Houston, Texas 77004
Phone 713.942.8146
Fax 713.942.8966
ttrigilio@aclutx.org

Kali Cohn
Texas Bar. No. 24092265

S.D. Texas Bar No. 3053958
American Civil Liberties Union
Foundation of Texas
6440 N. Central Expressway
Dallas, TX 75206
Tel: 214-346-6577
Fax: 713-942-8966

Tristia Bauman
District of Columbia Bar No. 1016342
Admitted pro hac vice
National Law Center on Homelessness & Poverty
2000 M Street NW, Suite 210
Washington, DC 20036
(202) 638-2535 x. 102
tbauman@nlchp.org

H. Joseph Escher III
California Bar No. 85551
Admitted pro hac vice
Dechert LLP
One Bush Street
Suite 1600
San Francisco, California 94104
Tel.: 415-262-4500
Fax: 415-262-4555

Joseph M. Abraham
Texas Bar No. 24088879
S.D. Tex. Bar No. 2847789
Dechert LLP
300 West 6th Street, Suite 2010
Austin, Texas 78701
Tel.: 512-394-3000
Fax: 512-394-3001

Timothy F. Dewberry
Texas Bar No. 24090074
S.D. Tex. Bar No. 2885846
Dechert LLP
300 West 6th Street, Suite 2010
Austin, Texas 78701
Tel.: 512-394-3000
Fax: 512-394-3001

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

On the 17th day of August, 2017, pursuant to Federal Rules of Civil Procedure, a true copy of the instrument to which this Certificate is attached was duly served upon each party to this cause on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on the respective attorneys.

Connica Lemond
Attorney-in-Charge
P.O. Box 368
Houston, Texas 77001-0368
900 Bagby, 3rd Floor
Houston, Texas 77002

Deidra Norris Sullivan
P.O. Box 368
Houston, Texas 77001-0368
900 Bagby, 3rd Floor
Houston, Texas 77002

Attorneys for Defendant

/s/ Joseph M. Abraham

Joseph M. Abraham